

REMARKS/ARGUMENTS

Claims 9-14 are pending in the current application, and the Examiner has rejected these claims in an Office Action having a mailing date of April 1, 2003.

In Paragraph 2 of the above-referenced Office Action, the Examiner indicated that the Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. § 120 because no reply was submitted to an Office Action mailed on May 30, 2001 in the parent application (Patent Application No. 09/540,659), and no extension of time was requested. Applicants note to the Examiner's attention that a PETITION TO ACCEPT PAYMENT OF EXTENSION FEE, OR IN THE ALTERNATIVE, PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION was submitted under separate cover with this Amendment and Response.

The present application was filed as a Continuation-in-Part (CIP) application expressly claiming priority to the parent application. Therefore, it was the intent of the Applicants to file the CIP application during the active pendency of the parent application. Furthermore, the transmittal for the present application stated that "The Commissioner is hereby authorized to charge all required fees for extensions of time under § 1.17 to Deposit Account No. 19-1970." See attached transmittal sheet. Moreover, this same exact statement was provided in the transmittal for the parent application (Patent Application No. 09/540,659). See attached transmittal sheet. In accordance with 37 CFR § 1.136 (a)(3), this statement provides for a constructive petition for an extension of time.

Paragraph (a)(3) of 37 CFR § 1.136 states in part:

A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under Sec. 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission.

37 CFR § 1.136 (a)(3).

Accordingly, by operation of 37 CFR § 1.136 (a)(3), a constructive petition for an extension of time existed in the parent application, and thus, since the present CIP application was filed on September

28, 2001 and during the available period for an extension of time in the parent case, the Applicants respectfully requests that the priority claim of the present application be granted.

In Paragraph 3 of the Office Action in the present application, the Examiner acknowledged the Applicants' claim for priority under 35 U.S.C. §119, but denied this claim because of the priority claim was denied under U.S.C. §120, as noted and addressed above. However, because the Applicants have established the right to claim priority under U.S.C. §120 in the paragraph above, consistent with the application transmittal sheet for the present application, the present application is again requested to also be granted priority under U.S.C. §119 to Italian Patent Application No. BA99 A 000010 filed April 1, 1999.

With regard to Paragraph 4 of the Office Action, for the foregoing reasons, the Declaration is still appropriate because the priority dates are correct.

In Paragraph 5, the Examiner objected to two matters in the specification. An unseen shift occurred in printing the formulas, causing the overlap of two formulas at line 20 and a void in first line of page 8. The specification of the present application has been amended to address the objections raised by the Examiner in Paragraph 5. In addition, the Applicants have amended the first paragraph of the Detailed Description of the Invention to include reference numeral "3a" as shown in Fig. 1. Applicants believe no new matter has been added as a result of this amendment.

In Paragraph 6 of the Office Action, the Examiner rejected Claims 9-14 under 35 U.S.C. §112, second paragraph, as being indefinite for a number of terms or phrases in the claims. Applicants have canceled Claims 9-14 and have entered new Claims 15-22, where new Claims 15-22 utilize wording taken directly from the application as originally filed, and thus, the wording addresses the Examiner's concerns under 35 U.S.C. §112. More particularly, the previous existing term "thienyl-S,S-dioxide compound that has a ring" in Claim 9 has been replaced by the term "thiophene-S,S-dioxide compound" in new Claim 15. Still referring to Claim 15, the device comprises at least a film made of a luminescent material including the light emitting thiophene-S,S-dioxide compound, and it is this film, "said film" as recited in Claim 15, that directly incorporates the supply elements. See also the originally filed description at page 2, lines 17-19. Furthermore, the feature that the "film directly incorporates the supply elements without the necessity of contacting and welding" should also be clear in view of the description at page 1-2, in particular, page 2, lines 17-19. In addition, objections to claims 10-11 have been addressed by the new claim

wording in new Claims 16 and 17 (corresponding to previous claims 10-11), where the term "ring" is obviously referred to the thiophene-S,S-dioxide ring structure. In new claim 20 (replacing claim 14) the structure of the claimed electric contact has been clarified. Finally, Applicants have endeavored to address the item of lack of antecedent basis. Thus, as amended, Applicants respectfully submit that wording of the claims and the meaning of the objected terms (taken literally from the description as filed) is not indefinite. Accordingly, the Examiner is requested to withdraw this rejection of the claims.

In Paragraphs 7-9, the Examiner has made 35 U.S.C. §102(a),(b), and (e) rejections of the pending claims. In Paragraph 8, the Examiner rejected Claim 14 under 35 U.S.C. §102(b) as being anticipated by Pouzet et al. or Arbizzani et al. or Barbarella et al. It is well recognized that claims are anticipated if, and only if, each and every element, as set forth in the claim is found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the...claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). See MPEP §2131.

The 35 U.S.C. §102 rejection is respectfully traversed. Either Barbarella or Pouzet or Ardizzani relate generically to light emitting compounds of the category claimed in the invention and their chemistry and physical properties, eventually referred to them as biological markers. They, however, do not relate in any manner to light emitting devices or to the technology of construction thereof. Moreover, in any manner the skilled person can perceive any indication or hint that such compounds are able to overcome the drawbacks of the known organic light emitting devices of the state of the art, e.g. those PPV based, namely the necessity of encapsulation and of embedding metallic contacts. No hint or suggestion may be found in Barbarella, Pouzet and Ardizzani also on a contact device including such compounds in order to improve its construction and performances. Accordingly, the Examiner is requested to withdraw the 35 U.S.C. §102 rejection that relies on Barbarella, or Pouzet or Ardizzani.

In Paragraph 9 of the Office Action, the Examiner rejected several claims under 35 U.S.C. §102(e) as being anticipated by Yamada et al. (US 2002/0034658). For the reasons given above, the Yamada reference should not be available because the priority claim to the parent application.

Application No. 09/967,057

Notwithstanding this point, Yamada refers to EL devices (electroluminescent devices), i.e. devices (like a computer flat screen) comprising a couple of electrodes between which an organic layer is placed. Yamada does not relate to a LED (light emitting device) device where the light emitting material is not encapsulated and does not need metallic electric contacts embedded in the film to work properly. Thus, Yamada does not anticipate the present invention as claimed. Accordingly, the Examiner is respectfully requested to withdraw the rejection under 35 U.S.C. §102 using the Yamada reference.

In addition to adding new Claims 15-20 that substantially correspond to canceled Claims 9-14, Applicants have also added new method Claims 21 and 22.

Based upon the foregoing, the Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Joseph E. Kovarik

Registration No. 33,005

1560 Broadway, Suite 1200

Denver, Colorado 80202-5141

(303) 863-9700

Date: 8/1/03

J:\3797\In-1\CIP\AMD-01-to 4-1-03 OA.wpd